

EXHIBIT 1

Public Law 85-836

AN ACT

To provide for registration, reporting, and disclosure of employee welfare and pension benefit plans.

August 28, 1958
[S. 2888]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Welfare and Pension Plans Disclosure Act".

Welfare and Pension Plans Disclosure Act.

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WELFARE AND PENSION PLANS DISCLOSURE ACT

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FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that the growth in size, scope, and numbers of employee welfare and pension benefit plans in recent years has been rapid and substantial; that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; that they are affected with a national public interest; that they have become an important factor affecting the stability of employment and the successful development of industrial relations; that they have become an important factor in commerce because of the interstate character of their activities, and of the activities of their participants, and the employers, employee organizations, and other entities by which they are established or maintained; that owing to the lack of employee information concerning their operation, it is desirable in the interests of employees and their beneficiaries, and to provide for the general welfare and the free flow of commerce, that disclosure be made with respect to the operation and administration of such plans.

(b) It is hereby declared to be the policy of this Act to protect interstate commerce and the interests of participants in employee welfare and pension benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto.

DEFINITIONS

SEC. 3. (a) When used in this Act—

(1) The term "employee welfare benefit plan" means any plan, fund, or program which is communicated to or its benefits described in writing to the employees, and which was heretofore or is hereafter established by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death, or unemployment.

(2) The term "employee pension benefit plan" means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established

by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits, and includes any profit-sharing plan which provides benefits at or after retirement.

(3) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee welfare or pension benefit plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

(4) The term "employer" means any person acting directly as an employer or indirectly in the interest of an employer in relation to an employee welfare or pension benefit plan, and includes a group or association of employers acting for an employer in such capacity.

(5) The term "employee" means any individual employed by an employer.

(6) The term "participant" means any employee or former employee of an employer or any member of an employee organization who is or may become eligible to receive a benefit of any type from an employee welfare or pension benefit plan, or whose beneficiaries may be eligible to receive any such benefit.

(7) The term "beneficiary" means a person designated by a participant or by the terms of an employee welfare or pension benefit plan who is or may become entitled to a benefit thereunder.

(8) The term "person" means an individual, partnership, corporation, mutual company, joint-stock company, trust, unincorporated organization, association, or employee organization.

(9) The term "State" means any State of the United States, the District of Columbia, Hawaii, Puerto Rico, the Virgin Islands, and the Canal Zone.

(10) The term "commerce" means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place outside thereof.

(11) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce.

COVERAGE

Sec. 4. (a) Except as provided in subsection (b), this Act shall apply to any employee welfare or pension benefit plan if it is established or maintained by any employer or employers engaged in commerce or in any industry or activity affecting commerce or by any employee organization or organizations representing employees engaged in commerce or in any industry or activity affecting commerce or by both.

(b) This Act shall not apply to an employee welfare or pension benefit plan if—

(1) such plan is administered by the Federal Government or by the government of a State, by a political subdivision of a State, or by an agency or instrumentality of any of the foregoing;

(2) such plan was established and is maintained solely for the purpose of complying with applicable workmen's compensation laws or unemployment compensation disability insurance laws;

(3) such plan is exempt from taxation under section 501 (a) of the Internal Revenue Code of 1954 and is administered as a corol-

lary to membership in a fraternal benefit society described in section 501 (c) (8) of such Code or by organizations described in sections 501 (c) (3) and 501 (c) (4) of such Code; or (4) such plan covers not more than twenty-five employees.

68A Stat. 164,
163.

DUTY OF DISCLOSURE AND REPORTING

SEC. 5. (a) The administrator of an employee welfare benefit plan or an employee pension benefit plan shall publish in accordance with section 8 to each participant or beneficiary covered thereunder (1) a description of the plan and (2) an annual financial report. Such description and such report shall contain information required by sections 6 and 7 of this Act and shall be published in accordance with the provisions of this Act.

(b) The term "administrator" whenever used in this Act, refers to—

(1) the person or persons designated by the terms of the plan or the collective bargaining agreement with responsibility for the ultimate control, disposition, or management of the money received or contributed; or

(2) in the absence of such designation, the person or persons actually responsible for the control, disposition, or management of the money received or contributed, irrespective of whether such control, disposition, or management is exercised directly or through an agent or trustee designated by such person or persons.

DESCRIPTION OF THE PLAN

SEC. 6. (a) Except as provided in section 4, the description of any employee welfare or pension benefit plan shall be published as required herein within ninety days of the effective date of this Act or within ninety days after the establishment of such plan, whichever is later.

(b) The description of the plan shall be published, signed, and sworn to by the person or persons defined as the "administrator" in section 5, and shall include their names and addresses, their official positions with respect to the plan, and their relationship, if any, to the employer or to any employee organizations, and any other offices, positions, or employment held by them; the name, address, and description of the plan and the type of administration; the schedule of benefits; the names, titles, and addresses of any trustee or trustees (if such persons are different from those persons defined as the "administrator"); whether the plan is mentioned in a collective bargaining agreement; copies of the plan or of the bargaining agreement, trust agreement, contract, or other instrument, if any, under which the plan was established and is operated; the source of the financing of the plan and the identity of any organization through which benefits are provided; whether the records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments.

ANNUAL REPORTS

SEC. 7. (a) The administrator of any employee welfare or pension benefit plan, a description of which is required to be published under section 6, shall also publish an annual report with respect to such plan. Such report shall be published as required under section 8, within one hundred and twenty days after the end of the calendar year (or, if the records of the plan are kept on a policy or other fiscal year basis, within one hundred and twenty days after the end of such policy or fiscal year).

(b) A report under this section shall be signed by the administrator and such report shall include the following:

The amount contributed by the employer or employers; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a summary statement of assets, liabilities, receipts and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes. The information required by this section shall be sworn to by the administrator, or certified to by an independent certified or licensed public accountant, based upon a comprehensive audit conducted in accordance with accepted standards of auditing, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing an insurance, investment, or related function for the plan, if such books or records are subject to examination by any agency of the Federal Government or the government of any State.

(c) If the plan is unfunded, the report shall include only the total benefits paid and the average number of employees eligible for participation, during the past five years, broken down by years; and a statement, if applicable, that the only assets from which claims against the plan may be paid are the general assets of the employer.

(d) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization such report shall include with respect to such plan (in addition to the information required by subsection (b)) the following:

(1) The premium rate or subscription charge and the total premium or subscription charges paid to each such carrier or organization and the approximate number of persons covered by each class of such benefits.

(2) The total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such carrier or other organization; dividends or retroactive rate adjustments, commissions, and administrative service or other fees or other specific acquisition costs, paid by such carrier or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose: *Provided*, That if any such carrier or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include in lieu of the information required by the foregoing provisions of this paragraph (A) a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the plan, and a copy of the financial report of the carrier or other organization and (B), if such carrier or organization incurs specific costs in connection with the acquisition or retention of any particular plan or plans, a detailed statement of such costs.

(e) Details relative to the manner in which any funds held by an employee welfare benefit plan are held or invested shall be reported as provided under paragraphs (B), (C), and (D) of subsection (f) (1).

(f) Reports on employee pension benefit plans shall include, in addition to the applicable information required by the foregoing provisions of this section, the following:

(1) If the plan is funded through the medium of a trust, the report shall include—

Plan funded
through trust.

(A) the type and basis of funding, actuarial assumptions used, the amount of current and past service liabilities, and the number of employees, both retired and nonretired covered by the plan;

(B) a summary statement showing the assets of the fund broken down by types, such as cash investments in governmental obligations, investments in nongovernmental bonds, and investments in corporate stocks. Such assets shall be valued on the basis regularly used in valuing investments held in the fund and reported to the United States Treasury Department, or shall be valued at their aggregate cost or present value, whichever is lower, if such a statement is not so required to be filed with the United States Treasury Department;

(C) a detailed list, including information as to cost, present value, and percentage of total fund, of all investments in securities or properties of the employer or employee organization, or any other party in interest by reason of being an officer, trustee, or employee of such fund, but the identity of all securities and the detail of brokerage fees and commissions incidental to the purchase or sale of such securities need not be revealed if such securities are listed and traded on an exchange subject to regulation by the Securities and Exchange Commission or securities in an investment company registered under the Investment Company Act of 1940, or securities of a public utility holding company registered under the Public Utility Holding Company Act of 1935, and the statement of assets contains a statement of the total investments in common stock, preferred stock, bonds and debentures, respectively, listed at their aggregate cost or present value, whichever is lower.

54 Stat. 789.
15 USC 80a-51.

49 Stat. 838.
15 USC 79.

(D) a detailed list of all loans made to the employer, employee organization, or other party in interest by reason of being an officer, trustee, or employee of such fund, including the terms and conditions of the loan and the name and address of the borrower: *Provided*, That if the plan is funded through the medium of a trust invested, in whole or in part, in one or more insurance or annuity contracts with an insurance carrier, the report shall include, as to the portion of the funds so invested, only the information required by paragraph (2) below.

(2) If the plan is funded through the medium of a contract with an insurance carrier, the report shall include—

Plan funded
through contract.

(A) the type and basis of funding, actuarial assumptions used in determining the payments under the contract, and the number of employees, both retired and nonretired, covered by the contract; and

(B) except for benefits completely guaranteed by the carrier, the amount of current and past service liabilities, based on those assumptions, and the amount of all reserves accumulated under the plan.

(3) If the plan is unfunded, the report shall include the total benefits paid to retired employees for the past five years, broken down by year.

PUBLICATION

SEC. 8. (a) Publication of the description of the plan and the latest annual report required under this Act shall be made to the participants and to the beneficiaries covered by the particular plan as follows:

(1) The administrator shall make copies of such description of the plan (including all amendments or modifications thereto upon their effective date) and of the latest annual report available for examination by any participant or beneficiary in the principal office of the plan.

(2) The administrator shall deliver upon written request to such participant or beneficiary a copy of the description of the plan (including all amendments or modifications thereto upon their effective date) and a summary of the latest annual report, by mailing such documents to the last known address of the participant or beneficiary making such request.

(b) The administrator of any plan subject to the provisions of this Act shall file with the Secretary of Labor two copies of the description of the plan and each annual report thereon. The Secretary of Labor shall make available for examination in the public document room of the Department of Labor copies of descriptions of plans and annual reports filed under this subsection.

(c) The Secretary of Labor shall prepare forms for the descriptions of plans and the annual reports required by the provisions of this Act, and shall make such forms available to the administrators of such plans on request.

ENFORCEMENT

SEC. 9. (a) Any person who willfully violates any provision of sections 5 or 8 of this Act shall be fined not more than \$1,000, or imprisoned not more than six months.

(b) Any administrator of a plan who fails or refuses, upon the written request of a participant or beneficiary covered by such plan, to make publication to him within thirty days of such request, in accordance with the provisions of section 8, of a description of the plan or an annual report containing the information required by sections 6 and 7, may in the court's discretion become liable to any such participant or beneficiary making such request in the amount of \$50 a day from the date of such failure or refusal.

(c) Action to recover such liability may be maintained in any court of competent jurisdiction by any participant or beneficiary. The court in such action may in its discretion, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

(d) The district courts of the United States and the United States courts of the Territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 (relating to notice to adverse party) of the rules of civil procedure for the United States district courts, as amended (U. S. C., 1952 edition, title 28, section 2072), to restrain violations of section 8.

(e) The provisions of section 1001 of title 18 of the United States Code shall be applicable to any description of a plan or any annual report which is sworn to under this Act.

62 Stat. 961.

62 Stat. 749.

EFFECT OF OTHER LAWS

SEC. 10. (a) In the case of an employee welfare or pension benefit plan providing benefits to employees employed in two or more States, no person shall be required by reason of any law of any such State to file with any State agency (other than an agency of the State in

which such plan has its principal office) any information included within a description of the plan or an annual report published and filed pursuant to the provisions of this Act if copies of such description of the plan and of such annual report are filed with the State agency, and if copies of such portion of the description of the plan and annual report, as may be required by the State agency, are distributed to participants and beneficiaries in accordance with the requirements of such State law with respect to scope of distribution. Nothing contained in this subsection shall be construed to prevent any State from obtaining such additional information relating to any such plan as it may desire, or from otherwise regulating such plan.

(b) The provisions of this Act, except subsection (a) of this section, and any action taken thereunder, shall not be held to exempt or relieve any person from any liability, duty, penalty, or punishment provided by any present or future law of the United States or of any State affecting the operation or administration of employee welfare or pension benefit plans, or in any manner to authorize the operation or administration of any such plan contrary to any such law.

SEPARABILITY OF PROVISIONS

SEC. 11. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

EFFECTIVE DATE

SEC. 12. The provisions of this Act shall become effective January 1, 1959.

Approved August 28, 1958.

Public Law 85-837

AN ACT

To provide for the disposal of federally owned property of the Hanson, Company, and Houma Canals, Louisiana, and for other purposes.

August 28, 1958
[H. R. 13500]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, whenever the Secretary of the Army, upon recommendation of the Chief of Engineers, determines that any of the federally owned property of Hanson Canal and Lock in Saint Mary Parish, Louisiana, and the Company and Houma Canals in Lafourche and Terrebonne Parishes, Louisiana, no longer economically serve the purposes for which they were constructed or acquired, the structures and appurtenances including real property acquired in connection therewith may be eliminated as features of existing Federal navigation projects.

Hanson, Com-
pany, and Houma
Canals, La.
Disposal of prop-
erty.

SEC. 2. The Secretary of the Army is authorized to transfer or convey the property described above to the State of Louisiana or any of its political subdivisions, any local interests, or others, upon such terms and conditions as the Secretary may determine to be in the public interest: *Provided*, That the foregoing shall not be construed to preclude action under the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) if the Secretary of the Army reports the property to the Administrator of General Services for reassignment or disposal as excess real property.

40 Stat. 471 note.

Approved August 28, 1958.

Public Law 85-838

AN ACT

August 28, 1958
[H. R. 13132]

To amend the District of Columbia Teachers' Salary Act of 1955.

District of Columbia Teachers' Salary Act of 1955, amendment.
D. C. Code 31-659a note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to fix and regulate the salaries of teachers, school officers, and other employees of the Board of Education of the District of Columbia, and for other purposes", approved August 5, 1955 (69 Stat. 521, ch. 569), is amended as follows:

Section 1 is amended by striking everything after the first sentence and inserting in lieu thereof the following salary schedules:

"Salary class and position"	Service step 1 (minimum)	Service step 2	Service step 3	Service step 4	Service step 5	Service step 6
Class 1: Superintendent of Schools.....	\$19,000					
Class 2: Deputy superintendent.....	14,200	\$14,425	\$14,650	\$14,875	\$15,100	\$15,325
Class 3: Assistant superintendent; president, teachers college.....	12,400	12,625	12,850	13,075	13,300	13,525
Class 4: Dean, teachers college.....	11,300	11,525	11,750	11,975	12,200	12,425
Class 5: Group B, master's degree.....	9,900	10,125	10,350	10,575	10,800	11,025
Group C, master's degree plus 30 credit hours.....	10,100	10,325	10,550	10,775	11,000	11,225
Dean of students, teachers college. Executive assistant to superintendent. Psychiatrist.						
Class 6: Group A, bachelor's degree.....	9,100	9,325	9,550	9,775	10,000	10,225
Group B, master's degree.....	9,600	9,825	10,050	10,275	10,500	10,725
Group C, master's degree plus 30 credit hours.....	9,800	10,025	10,250	10,475	10,700	10,925
Director, Department of Food Services.						
Class 7: Group B, master's degree.....	8,800	9,025	9,250	9,475	9,700	9,925
Group C, master's degree plus 30 credit hours.....	9,000	9,225	9,450	9,675	9,900	10,125
Administrative assistant to deputy superintendent. Director. Principal, senior high school. Chief examiner. Registrar, teachers college. Principal, Vocational High School.						
Class 8: Group B, master's degree.....	8,500	8,725	8,950	9,175	9,400	9,625
Group C, master's degree plus 30 credit hours.....	8,700	8,925	9,150	9,375	9,600	9,825
Professor, teachers college. Principal, junior high school. Principal, Americanization school. Supervising director.						
Class 9: Group B, master's degree.....	8,100	8,325	8,550	8,775	9,000	9,225
Group C, master's degree plus 30 credit hours.....	8,300	8,525	8,750	8,975	9,200	9,425
Director, Department of School Attendance and Work Permits. Principal, elementary school. Principal, Capitol Page School.						
Class 10: Group B, master's degree.....	8,000	8,225	8,450	8,675	8,900	9,125
Group C, master's degree plus 30 credit hours.....	8,200	8,425	8,650	8,875	9,100	9,325
Assistant principal, senior high school. Assistant principal, vocational high school.						
Class 11: Group A, bachelor's degree.....	7,300	7,525	7,750	7,975	8,200	8,425
Group B, master's degree.....	7,800	8,025	8,250	8,475	8,700	8,925
Group C, master's degree plus 30 credit hours.....	8,000	8,225	8,450	8,675	8,900	9,125
Assistant Director, Department of Food Services.						
Class 12: Group B, master's degree.....	7,700	7,925	8,150	8,375	8,600	8,825
Group C, master's degree plus 30 credit hours.....	7,900	8,125	8,350	8,575	8,800	9,025
Assistant principal, junior high school. Assistant principal, Americanization school.						

SEC. 2. Section 15 of the Revised Organic Act of the Virgin Islands (68 Stat. 497, 504; 48 U.S.C. 1596) is amended by adding the following at the end thereof: "The Governor or Acting Governor may from time to time designate an officer or employee of the executive department of the government of the Virgin Islands to act as government secretary for the Virgin Islands in case of a vacancy in the office of the government secretary or the disability or temporary absence of the government secretary or while said government secretary is acting as Governor, and the person so designated shall have all the powers of government secretary so long as such condition continues, except for the power set forth in section 14 of this Act. No additional compensation shall be paid to any person acting as Governor or as secretary under this Act."

48 USC 1595.

Approved March 16, 1962.

Public Law 87-420

AN ACT

To amend the Welfare and Pension Plans Disclosure Act with respect to the method of enforcement and to provide certain additional sanctions, and for other purposes.

March 20, 1962
[H. R. 8723]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Welfare and Pension Plans Disclosure Act Amendments of 1962".

Welfare and Pension Plans Disclosure Act Amendments of 1962.

SEC. 2. The first line of section 3 of the Welfare and Pension Plans Disclosure Act is amended by striking out "(a)".

72 Stat. 997.
29 USC 302.

SEC. 3. Paragraph (1) of section 3 of such Act is amended by striking out the word "to" after the word "communicated".

SEC. 4. Paragraph (9) of section 3 of such Act is amended to read as follows:

"(9) The term 'State' includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343)."

Definitions.

67 Stat. 462.

SEC. 5. Section 3 of such Act is further amended by striking out paragraph (11) and adding the following new paragraphs (11), (12), and (13):

"(11) The term 'industry or activity affecting commerce' means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry 'affecting commerce' within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

61 Stat. 136.
29 USC 141.
44 Stat. 577.
45 USC 151.

"(12) The term 'Secretary' means the Secretary of Labor.

"(13) The term 'party in interest' means any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan or employee pension benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or officer or employee or agent of such employer, or an officer or agent or employee of an employee organization having members covered by such plan."

SEC. 6. Paragraphs (3) and (4) of subsection (b) of section 4 of such Act are amended to read as follows:

29 USC 303.

"(3) such plan is administered by an organization which is exempt from taxation under the provisions of section 501(a) of the Internal Revenue Code of 1954 and is administered as a corol-

26 USC 501.

lary to membership in a fraternal benefit society described in section 501(c)(8) of such Code or by organizations described in sections 501(c)(3) and 501(c)(4) of such Code: *Provided*, That the provisions of this paragraph shall not exempt any plan administered by a fraternal benefit society or organization which represents its members for purposes of collective bargaining; or

“(4) such plan covers not more than twenty-five participants.”

29 USC 304.

29 USC 305, 306.

29 USC 302.

29 USC 305.

29 USC 306.

Report: contents.

29 USC 308.

SEC. 7. Subsection (a) of section 5 of such Act is amended by striking out the last sentence thereof and inserting in lieu thereof the following: “Such description and such report shall contain the information required by sections 6 and 7 of this Act in such form and detail as the Secretary shall by regulations prescribe and copies thereof shall be executed, published, and filed in accordance with the provisions of this Act and the Secretary’s regulations thereunder. No regulation shall be issued under the preceding sentence which relieves any administrator of the obligation to include in such description or report any information relative to his plan which is required by section 6 or 7. Notwithstanding the foregoing, if the Secretary finds, on the record after giving interested persons an opportunity to be heard, that specific information on plans of certain kinds or on any class or classes of benefits described in section 3 (1) and (2) which are provided by such plans cannot, in the normal method of operation of such plans, be practicably ascertained or made available for publication in the manner or for the period prescribed in any provision of this Act, or that the information if published in such manner or for such period would be duplicative or uninformative, the Secretary may by regulations prescribe such other manner or such other period for the publication of such information as he may determine to be necessary and appropriate to carry out the purposes of this Act.”

SEC. 8. Subsection (b) of section 6 of such Act is amended by adding at the end thereof the following new sentence: “Any change in the information required by this subsection shall be reported to the Secretary within sixty days after the change has been effectuated.”

SEC. 9. (a) Section 7(a) of such Act is amended by inserting after the word “plan” the second time it appears the following: “if it covers one hundred or more participants. However, the Secretary, after investigation, may require the administrator of any plan otherwise covered by the Act to publish such report when necessary and appropriate to carry out the purposes of the Act”, and by striking out “twenty” both times it appears and inserting in lieu thereof “fifty”.

(b) Section 7(b) of such Act is amended by striking out the first sentence of the second paragraph and inserting in lieu thereof the following: “The amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets specifying the total amount in each of the following types of assets: cash, Government bonds, non-Government bonds and debentures, common stocks, preferred stocks, common trust funds, real estate loans and mortgages, operated real estate, other real estate, and other assets; a statement of liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes. The Secretary, when he has determined that an investigation is necessary in accordance with section 9(d) of this Act, may require the filing of supporting schedules of assets and liabilities.”

(c) Section 7(b) is further amended by adding at the end thereof the following new sentence: "In the case of reports sworn to, but not certified, the Secretary, when he determines that it may be necessary to investigate the plan in accordance with section 9(d) of this Act, shall, prior to investigation by the Department of Labor, require certification of the report by an independent certified or licensed public accountant."

SEC. 10. Subparagraph (B) of paragraph (1) of subsection (f) of section 7 of such Act is amended by striking out "summary" and by striking out "broken down by types, such as cash investments in governmental obligations, investments in nongovernmental bonds, and investments in corporate stocks" and inserting in lieu thereof the following: "as required by section 7(b)".

SEC. 11. Subparagraph (C) of paragraph (1) of subsection (f) of section 7 of such Act is amended by striking out "total fund" and inserting "total funds", by striking out "by reason of being an officer, trustee, or employee of such fund", and by striking out "listed at their aggregate cost or present value, whichever is lower" and inserting in lieu thereof "valued as provided in subparagraph (B)".

SEC. 12. Subparagraph (D) of paragraph (1) of subsection (f) of section 7 of such Act is amended by striking out the words "by reason of being an officer, trustee, or employee of such fund".

29 USC 306.

SEC. 13. Section 7 of such Act is amended by adding thereto the following new subsections (g) and (h):

"(g) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such reasonable information determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(h) The Secretary shall prescribe by general rule simplified reports for plans which he finds that by virtue of their size or otherwise a detailed report would be unduly burdensome, but the Secretary may revoke such provisions for simplified forms for any plan if the purposes of the Act would be served thereby."

Simplified reports.

SEC. 14. Section 8(a)(2) of such Act is amended by striking out "a summary" and inserting in lieu thereof "an adequate summary".

29 USC 307.

SEC. 15. (a) Section 9(a) of such Act is amended by striking out "of sections 5 or 8", and inserting before the period the words ", or both".

29 USC 308.
Enforcement.

(b) Section 9 of such Act is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsections:

"(d) The Secretary may, after first requiring certification in accordance with section 7(b), upon complaint of violation not satisfied by such certification, or on his own motion, when he continues to have reasonable cause to believe investigation may disclose violations of this Act, make such investigations as he deems necessary, and may require or permit any person to file with him a statement in writing, under oath or otherwise, as to all the facts and circumstances concerning the matter to be investigated.

"(e) For the purposes of any investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

29 USC 308, 309.

38 Stat. 717.

“(f) Whenever it shall appear to the Secretary that any person is engaged in any violation of the provisions of this Act, he may in his discretion bring an action in the proper district court of the United States or United States court of any place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted.

Jurisdiction.

“(g) The United States district courts and the United States courts of any place subject to the jurisdiction of the United States shall have jurisdiction, for cause shown, to restrain violations of this Act.

Restriction.

“(h) Nothing contained in this Act shall be so construed or applied as to authorize the Secretary to regulate, or interfere in the management of, any employee welfare or pension benefit plan, except that the Secretary may inquire into the existence and amount of investments, actuarial assumptions, or accounting practices only when it has been determined that investigation is required in accordance with section 9(d) of this Act.

Information to
Attorney General.

“(i) The Secretary shall immediately forward to the Attorney General or his representative any information coming to his attention in the course of the administration of this Act which may warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.”

29 USC 309, 301
notes.

SEC. 16. (a) Such Act is further amended by renumbering sections 10, 11, and 12 as sections 16, 17, and 18, respectively, and by adding the following new sections to the Act:

“REPORTS MADE PUBLIC INFORMATION

“SEC. 10. The contents of the descriptions and regular annual reports filed with the Secretary pursuant to this Act shall be public information, and the Secretary, where to do so would protect the interests of participants or beneficiaries of a plan, may publish any such information and data. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

“RETENTION OF RECORDS

“SEC. 11. Every person required to file any description or report or to certify any information therefor under this Act shall maintain records on the matters of which disclosure is required which will provide in sufficient detail the necessary basic information and data from which the documents thus required may be verified, explained, or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

“RELIANCE ON ADMINISTRATIVE INTERPRETATIONS AND FORMS

“SEC. 12. In any action or proceeding based on any act or omission in alleged violation of this Act, no person shall be subject to any liability or punishment for or on account of the failure of such person to (1) comply with any provision of this Act if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Secretary, or (2) publish and file any information required by any provision of this Act if he pleads and proves that he published and

filed such information in good faith, on the description and annual report forms prepared by the Secretary and in conformity with the instructions of the Secretary issued under this Act regarding the filing of such forms. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publication or filing is determined by judicial authority not to be in conformity with the requirements of this Act.

"BONDING

"SEC. 13. (a) Every administrator, officer, and employee of any employee welfare benefit plan or of any employee pension benefit plan subject to this Act who handles funds or other property of such plan shall be bonded as herein provided; except that, where such plan is one under which the only assets from which benefits are paid are the general assets of a union or of an employer, the administrator, officers and employees of such plan shall be exempt from the bonding requirements of this section. The amount of such bond shall be fixed at the beginning of each calendar, policy, or other fiscal year, as the case may be, which constitutes the reporting year of such plan. Such amount shall be not less than 10 per centum of the amount of funds handled, determined as herein provided, except that any such bond shall be in at least the amount of \$1,000 and no such bond shall be required in an amount in excess of \$500,000: *Provided*, That the Secretary, after due notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of \$500,000, which in no event shall exceed 10 per centum of the funds handled. For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by their predecessor or predecessors, if any, during the preceding reporting year, or if the plan has no preceding reporting year, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations of the Secretary. Such bond shall provide protection to the plan against loss by reason of acts of fraud or dishonesty on the part of such administrator, officer, or employee, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to the Act of July 30, 1947 (6 U.S.C. 6-13). Any bond shall be in a form or of a type approved by the Secretary, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

61 Stat. 648.

"(b) It shall be unlawful for any administrator, officer, or employee to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any employee welfare benefit plan or employee pension benefit plan, without being bonded as required by subsection (a) and it shall be unlawful for any administrator, officer, or employee of such plan, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any such person, with respect to whom the requirements of subsection (a) have not been met.

"(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through

any agent or broker in whose business operations such plan or any party in interest in such plan has any significant control or financial interest, direct or indirect.

“(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (a) because he handles funds or other property of an employee welfare benefit plan or of an employee pension benefit plan, to be bonded insofar as the handling by such person of the funds or other property of such plan is concerned.

Regulations.

“(e) The Secretary shall from time to time issue such regulations as may be necessary to carry out the provisions of this section. When, in the opinion of the Secretary, the administrator of a plan offers adequate evidence of the financial responsibility of the plan, or that other bonding arrangements would provide adequate protection of the beneficiaries and participants, he may exempt such plan from the requirements of this section.

“ADVISORY COUNCIL

Appointment of members.

“SEC. 14. (a) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the ‘Council’) which shall consist of thirteen members to be appointed in the following manner: One from the insurance field, one from the corporate trust field, two from management, four from labor, and two from other interested groups, all appointed by the Secretary from among persons recommended by organizations in the respective groups; and three representatives of the general public appointed by the Secretary.

Report to Congress.

“(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this Act, and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least twice each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act for such preceding calendar year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the Act’s operation and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

“(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties.

60 Stat. 808;
75 Stat. 339, 340.

“(d) Appointed members of the Council shall be paid compensation at the rate of \$50 per diem when engaged in the work of the Council, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

Conflict of interest.

62 Stat. 697, 793.

“(e) (1) Any member of the Council is hereby exempted, with respect to such appointment, from the operation of sections 281, 283, and 1914 of title 18 of the United States Code, and section 190 of the Revised Statutes (5 U.S.C. 99), except as otherwise specified in paragraph (2) of this subsection.

“(2) The exemption granted by paragraph (1) of this subsection shall not extend—

“(A) to the receipt or payment of salary in connection with the appointee’s Government service from any source other than the private employer of the appointee at the time of his appointment, or

“(B) during the period of such appointment, to the prosecution or participation in the prosecution, by any person so appointed, of any claim against the Government involving any matter with which such person, during such period, is or was directly connected by reason of such appointment.

“ADMINISTRATION

“SEC. 15. (a) The provisions of the Administrative Procedure Act shall be applicable to this Act.

60 Stat. 237.
5 USC 1001 note.
Applicability.

“(b) No employee of the Department of Labor shall administer or enforce this Act with respect to any employee organization of which he is a member or employer organization in which he has an interest.

“(c) No more than 260 employees shall be employed by the Department of Labor to administer or enforce this Act for the first two years after the enactment of the Welfare and Pension Plans Disclosure Act Amendments of 1962.

Enforcement.

“(d) Not more than two million two hundred thousand dollars per year is authorized to be appropriated for the administration and enforcement of this Act, for the first two years after the enactment of the Welfare and Pension Plans Disclosure Act Amendments of 1962.”

Appropriation.

(b) Subsection (b) of the section renumbered as section 16 by this Act, is amended by inserting after “of this section” the following: “and section 13”.

Ante, p. 38.

(c) The table of contents of the first section of such Act is amended by striking out the last three lines and inserting in lieu thereof the following:

72 Stat. 997.
29 USC 301 note.

“Sec. 10. Reports made public information.

“Sec. 11. Retention of records.

“Sec. 12. Reliance on administrative interpretations and forms.

“Sec. 13. Bonding.

“Sec. 14. Advisory Council.

“Sec. 15. Administration.

“Sec. 16. Effect of other laws.

“Sec. 17. Separability of provisions.

“Sec. 18. Effective date.”

SEC. 17. (a) Chapter 31 of title 18, United States Code, as amended, is amended by adding a new section captioned and reading as follows:

18 USC 641-663.

“§ 664. Theft or embezzlement from employee benefit plan

“Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use or to the use of another, any of the moneys, funds, securities, premiums, credits, property, or other assets of any employee welfare benefit plan or employee pension benefit plan, or of any fund connected therewith, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

“As used in this section, the term ‘any employee welfare benefit plan or employee pension benefit plan’ means any such plan subject to the provisions of the Welfare and Pension Plans Disclosure Act.”

(b) The analysis of chapter 31, title 18, United States Code, immediately preceding section 641 thereof, is amended by adding at the end thereof the following new item:

“664. Theft or embezzlement from employee benefit plan.”

18 U S C 1001-
1026.

(c) Chapter 47 of title 18, United States Code, as amended, is amended by adding a new section captioned and reading as follows:

“§ 1027. False statements and concealment of facts in relation to documents required by the Welfare and Pension Plans Disclosure Act

72 Stat. 997.
29 USC 301 note.

“Whoever, in any document required by the Welfare and Pension Plans Disclosure Act (as amended from time to time) to be published, or kept as part of the records of any employee welfare benefit plan or employee pension benefit plan, or certified to the administrator of any such plan, makes any false statement or representation of fact, knowing it to be false, or knowingly conceals, covers up, or fails to disclose any fact the disclosure of which is required by such Act or is necessary to verify, explain, clarify or check for accuracy and completeness any report required by such Act to be published or any information required by such Act to be certified, shall be fined not more than \$10,000, or imprisoned not more than five years, or both.”

18 U S C 1001-
1026.

(d) The analysis of chapter 47, title 18, United States Code, immediately preceding section 1001, is amended by adding at the end thereof the following new item:

“1027. False statements and concealment of facts in relation to documents required by the Welfare and Pension Plans Disclosure Act.”

18 U S C 1951-
1953.

(e) Chapter 95 of title 18, United States Code, as amended, is amended by adding a new section captioned and reading as follows:

“§ 1954. Offer, acceptance, or solicitation to influence operations of employee benefit plan

“(a) Whoever being—

“(1) an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee welfare benefit plan or employee pension benefit plan; or

“(2) an officer, counsel, agent, or employee of an employer or an employer any of whose employees are covered by such plan; or

“(3) an officer, counsel, agent, or employee of an employee organization any of whose members are covered by such plan; or

“(4) a person who, or an officer, counsel, agent, or employee of an organization which, provides benefit plan services to such plan receives or agrees to receive or solicits any fee, kickback, commission, gift, loan, money, or thing of value because of or with intent to be influenced with respect to, any of his actions, decisions, or other duties relating to any question or matter concerning such plan or any person who directly or indirectly gives or offers, or promises to give or offer, any fee, kickback, commission, gift, loan, money, or thing of value prohibited by this section, shall be fined not more than \$10,000 or imprisoned not more than three years, or both: *Provided*, That this section shall not prohibit the payment to or acceptance by any person of bona fide salary, compensation, or other payments made for goods or facilities actually furnished or for services actually performed in the regular course of his duties as such person, administrator, officer, trustee, custodian, counsel, agent, or employee of such plan, employer, employee organization, or organization providing benefit plan services to such plan.

"As used in this section, the term (a) 'any employee welfare benefit plan' or 'employee pension benefit plan' means any such plan subject to the provisions of the Welfare and Pension Plans Disclosure Act, as amended, and (b) 'employee organization' and 'administrator' as defined respectively in sections 3(3) and 5(b) (1) and (2) of the Welfare and Pension Plans Disclosure Act, as amended.

72 Stat. 997.
29 USC 301 note.

"(b) Whenever in the judgment of a United States attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any case or proceeding before any grand jury or court of the United States involving any violation of this section, or any conspiracy to violate such section, is necessary to the public interest, he, upon the approval of the Attorney General, shall make application to the court that the witness shall be instructed to testify or produce evidence subject to the provisions of this subsection, and upon order of the court such witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding (except prosecution described in the next sentence) against him in any court. No witness shall be exempt under this subsection from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this subsection."

29 USC 302,
304.

(f) The analysis of chapter 95, title 18, United States Code, immediately preceding section 1951 thereof, is amended by adding at the end thereof the following new item:

18 USC 1951-
1953.

"1954. Offer, acceptance, or solicitation to influence operations of employee benefit plan."

SEC. 18. The Welfare and Pension Plans Disclosure Act is further amended by substituting the term "Secretary" for the term "Secretary of Labor" wherever the latter term appears in such Act.

SEC. 19. The amendments made by this Act shall take effect ninety days after the enactment of this Act, except that section 13 of the Welfare and Pension Plans Disclosure Act shall take effect one hundred eighty days after such date of enactment.

Effective date.
Ante, p. 39.

Approved March 20, 1962, 10:15 a.m.

Public Law 87-421

AN ACT

To amend section 17(a) of the Revised Organic Act of the Virgin Islands pertaining to the salary of the government comptroller.

March 20, 1962
[H. R. 7666]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 17 of the Revised Organic Act of the Virgin Islands, as amended (48 U.S.C., sec. 1599(a)), is amended by striking out the first sentence of said subsection and inserting in lieu thereof the following: "The Secretary of the Interior shall appoint a government comptroller who shall receive an annual salary at a rate established in accordance with the standards provided by the Classification Act of 1949, as amended."

Virgin Islands.
Government
comptroller, sal-
ary.
68 Stat. 504.

Approved March 20, 1962.